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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------|-------------|----------------------|-------------------------|------------------|
| 10/018,591 | 12/07/2001 | Antonino D'Africa | 70398 8366 | |
| 7590 02/03/2006 | | | EXAMINER | |
| ANTONINO D'AFRICA | | | GRAY, PHILLIP A | |
| VIA MODENA S. SPERATO #2 TRAV. 46 | | | ART UNIT | PAPER NUMBER |
| I-89100, REGGIO CALABRIA, | | | 3767 | |
| ITALY | | | DATE MAILED: 02/03/2006 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | Application No. | Applicant(s) | | | |
|--|---|---|---------------------------|--|--|--|
| Office Action Summary | | 10/018,591 | D'AFRICA ET AL. | | | |
| | | Examiner | Art Unit | | | |
| | | Phillip Gray | 3767 | | | |
| Period fo | The MAILING DATE of this communication app or Reply | ears on the cover sheet with the c | orrespondence address | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | | | | | |
| Status | | | | | | |
| 1)⊠ | Responsive to communication(s) filed on 21 No | ovember 2005. | | | | |
| , — | · | action is non-final. | | | | |
| 3) | Since this application is in condition for allowance except for formal matters, prosecution as to the merits is | | | | | |
| | closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. | | | | | |
| Disposition of Claims | | | | | | |
| 4)⊠ | Claim(s) 1-11,19 and 20 is/are pending in the a | application. | | | | |
| | 4a) Of the above claim(s) is/are withdraw | vn from consideration. | | | | |
| 5) 🗌 | Claim(s) is/are allowed. | | | | | |
| 6)⊠ | Claim(s) 1-11,19 and 20 is/are rejected. | | | | | |
| • | Claim(s) is/are objected to. | | | | | |
| 8) | Claim(s) are subject to restriction and/o | r election requirement. | | | | |
| Applicati | ion Papers | | | | | |
| 9)🛛 | The specification is objected to by the Examine | r. | | | | |
| . 10)□ | The drawing(s) filed on is/are: a) acce | epted or b) objected to by the | Examiner. | | | |
| | Applicant may not request that any objection to the | | | | | |
| | Replacement drawing sheet(s) including the correct | | | | | |
| 11) | The oath or declaration is objected to by the Ex | aminer. Note the attached Office | e Action or form PTO-152. | | | |
| Priority (| under 35 U.S.C. § 119 | | | | | |
| 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. | | | | | | |
| 2) Notice 3) Information | ot(s) Dee of References Cited (PTO-892) Dee of Draftsperson's Patent Drawing Review (PTO-948) Mation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Der No(s)/Mail Date 12/7/2001. | 4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal I 6) Other: | | | | |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Claims 1-11, and 19-20 in the reply filed on 11/21/2005 is acknowledged.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Specification

The abstract of the disclosure is objected to because the abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sibalis (U.S. Patent Number 5,328,452).

Sibalis discloses a multi signal electrical transdermal drug applicator with a current generator (38), first and second electrodes (20, 30), modulator (46), vehicle and active compound (12). The Sibalis device is used for the transdermal delivery of a drug to the patient through the skin (see paragraphs at column 2-3). The Sibalis device contains a modulator with amplitude between zero and a maximum value, a current with a positive sinusoidal, rectified sinusoidal, half-sinusoidal, triangular, sawtooth, or square waveforms. The Sibalis device does disclose the applicant's frequency ranges of between 100 to 3000 Hz and 0.1 to 5 Hz, with between 2500 Hz plus or minus 1000, or 0.025 Hz – 10 Hz (see paragraphs beginning at column 4, line 38, to column 8, line 42). Sibalis discloses that all frequencies, pulse widths, repetition rates, amplitudes, ect. (see paragraph at column 5, line 5 to column 5, line 10).

Response to Arguments

Applicant's arguments with respect to claims 1-11 have been considered but are most in view of the new ground(s) of rejection.

Conclusion

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pairdirect.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-Mens C. Jarmon free).